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2009-364 w/s

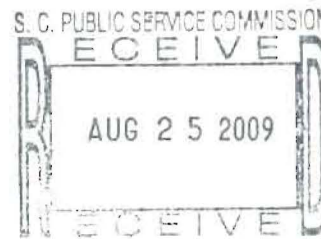
Post Office Box 1028  
Beaufort, S.C. 29901-1028

## HARBOR ISLAND UTILITIES, INC.

(843) 982-0405 fax: 982-0707

August 21, 2009

Mr. Charles Terreni  
Chief Clerk  
Public Service Commission of South Carolina  
P.O. Drawer 11649  
Columbia, SC 29211



Re: Notification OF SCDHEC Consent Order:

Dear Mr. Terreni:

In accordance with Regulation 103.714, please accept this letter as official notification that Harbor Island Utilities, Inc. (HIU) has entered into a Consent Order with the South Carolina Department of Health & Environmental Control (SCDHEC). The order is not under appeal, and a copy is attached for your files.

SCDHEC alleges that on October 10, 2006 it mailed to HIU a memorandum stating that HIU was required to submit a standard monitoring plan, system specific study, or 40/30 certification to SCDHEC no later than April 1, 2007. HIU never received the memorandum, and SCDHEC has no record that it was mailed (return receipt, delivery confirmation, etc.).

SCDHEC telephoned me on June 26, 2009 of the requirements, and I submitted the standard monitoring plan to the Department on July 14, 2009. The plan calls for four sampling events; they are to occur in August 2009, November 2009, February 2010, and May 2010. We conducted the first sampling on August 17, 2009. A final report is due to SCDHEC no later than February 1, 2011.

Please let me know if you would like any further information.

Sincerely,

Robert G. Gross  
President

Attachment

Copy of SCDHEC Consent Order 09-049-DW

Copy: Mr. Willie Morgan, ORS (with attachment)

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**THE STATE OF SOUTH CAROLINA  
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

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**IN RE: HARBOR ISLAND UTILITIES, INC.  
PUBLIC WATER SYSTEM NO. 0750013  
BEAUFORT COUNTY**

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**CONSENT ORDER  
09-049-DW**

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Harbor Island Utilities, Inc. (Respondent) owns and is responsible for the proper operation and maintenance of public water system No. 0750013 (PWS) that serves the customers of Harbor Island located in Beaufort County, South Carolina.

South Carolina Department of Health and Environmental Control (Department) records reveal that the Respondent failed to submit a standard monitoring plan, system specific study, or 40/30 certification to the Department by April 1, 2007, in preparation for its Initial Distribution System Evaluation (IDSE) report; and failed to submit its IDSE report to the Department by July 1, 2009.

The Parties have agreed to the issuance of this Consent Order to include the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

1. Harbor Island Utilities, Inc. (Respondent) owns and is responsible for the proper operation and maintenance of public water system No. 0750013 (PWS) that serves the customers of Harbor Island located in Beaufort County, South Carolina.

2. The PWS consists of one (1) permanent master meter, two hundred fourteen (214) taps, serves a population of approximately five hundred (500) and is classified by the Department as a Community Water System (CWS).
3. CWSs that use a primary or residual disinfectant other than ultraviolet light or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light are required by federal and state drinking water regulations to submit to the Department a standard monitoring plan, system specific study, or 40/30 certification and an IDSE report. An IDSE is required to characterize disinfection byproduct (DBP) levels in the distribution system and identify locations to monitor DBPs for compliance with the Stage 2 Disinfectants and Disinfection Byproducts Rule.
4. On October 10, 2006, Department staff mailed a memorandum to the Respondent stating that it was required to submit a standard monitoring plan, system specific study, or 40/30 certification to the Department by April 1, 2007.
5. On June 26, 2009, the Respondent's representative, Robert Gross (President of Harbor Island Utilities, Inc.), informed Department staff, via telephone, that he did not receive the October 10, 2006 memorandum. Following the conversation, Department staff sent to Mr. Gross, via fax, a copy of the October 10, 2006 memorandum.
6. On July 14, 2009, the Department received the Respondent's standard monitoring plan.
7. To date, the Department has not received an IDSE report from the Respondent.

### **CONCLUSIONS OF LAW**

Based upon the above Findings of Fact, the Department, pursuant to the State Safe Drinking Water Act, S.C. Code Ann. §§ 44-55-10 to 44-55-120 (2002 & Supp. 2008) reaches the following Conclusions of Law:

1. The Respondent violated the State Primary Drinking Water Regulations, 24A S.C Code

Ann. Regs. 61-58.14(B)(2)(b)(i) (Supp. 2008), in that it failed to submit a standard monitoring plan, system specific study, or 40/30 certification to the Department by April 1, 2007.

2. The Respondent violated the State Primary Drinking Water Regulations, 24A S.C Code Ann. Regs. 61-58.14(B)(2)(b)(iii) (Supp. 2008), in that it failed to submit its IDSE report to the Department by July 1, 2009.
3. The State Safe Drinking Water Act, S.C. Code Ann. § 44-55-90(B)(1) (2002), provides for a civil penalty not to exceed five thousand dollars (\$5,000.00) a day per violation for any person violating the Act.

**NOW, THEREFORE, IT IS ORDERED, CONSENTED TO AND AGREED**, pursuant to the State Safe Drinking Water Act, S.C. Code Ann. §§ 44-55-10 to 44-55-120 (2002 & Supp. 2008), that the Respondent shall:

1. By February 1, 2011, complete the standard monitoring and submit to the Department an IDSE report for the PWS.

**THE PARTIES FURTHER STIPULATE** that the Respondent shall pay a civil penalty of three thousand one hundred one dollars (\$3,101.00) should it fail to comply with any requirement pursuant to this Consent Order, including any implementation schedule approved by the Department. Such penalties shall be due and payable upon written notice to the Respondent. The Department's determination that a requirement has been missed shall be final. All penalties due under this paragraph shall be made payable to the South Carolina Department of Health and Environmental Control within thirty (30) days of notification by the Department. The stipulated penalties set forth above shall be in addition to any other remedies or sanctions which may be available to the Department by reason of the Respondent's failure to comply with the requirements of this Order. The Department's determination that the requirements have not

been met shall be final.

**PURSUANT TO THIS ORDER**, communications regarding this Order and its requirements are to include the Order number and shall be addressed as follows:

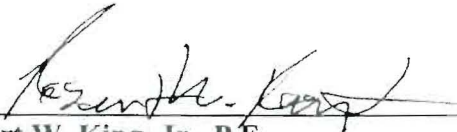
Tyra Cunningham  
S.C. Department of Health and Environmental Control  
Bureau of Water-Drinking Water Protection Division  
Drinking Water Enforcement Section  
2600 Bull Street  
Columbia, S.C. 29201

**IT IS FURTHER ORDERED AND AGREED** that this Consent Order governs only Harbor Island Utilities, Inc.'s liability to the Department for civil sanctions arising from matters set forth herein and constitutes the entire agreement between the Department and Harbor Island Utilities, Inc. with respect to the resolution and settlement of the matters set forth herein. The parties are not relying upon any representations, promises, understandings, or agreements except as expressly set forth within this Order.


**IT IS FURTHER ORDERED AND AGREED** that failure to comply with any provisions of this Order shall be grounds for further enforcement action pursuant to the State Safe Drinking Water Act, S.C. Code Ann. § 44-55-80(A) (2002), to include the assessment of additional civil penalties.

[Signature page follows]


FOR THE SOUTH CAROLINA DEPARTMENT  
OF HEALTH AND ENVIRONMENTAL CONTROL

  
Robert W. King, Jr., P.E.  
Deputy Commissioner  
Environmental Quality Control

Date: 8/18/09

  
David E. Wilson, Jr., P.E.  
Chief, Bureau of Water

Date: 8-13-09

  
Douglas B. Kinard, P.E., Director  
Drinking Water Protection Division  
Bureau of Water

Date: 8/13/09

Reviewed by:

  
Attorney  
Office of General Counsel

Date: 8/13/09

Harbor Island Utilities, Inc.

  
Signature

Date: August 8, 2009

Robert G. Gross, President  
Print or type name and title

